

HOUSE BILL NO. 682

INTRODUCED BY E. FRANKLIN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MULTILEVEL LICENSURE FOR SOCIAL
5 WORKERS; PROVIDING FOR LEVELS OF PRACTICE OF ASSOCIATE, BACCALAUREATE, MASTER'S, AND
6 CLINICAL SOCIAL WORK; PROVIDING FOR INDEPENDENT PRACTICE; PROVIDING THAT ALL SOCIAL
7 WORK BY FEDERAL, STATE, COUNTY, AND MUNICIPAL AGENCIES, BY EDUCATIONAL, RESEARCH, AND
8 CHARITABLE INSTITUTIONS, AND BY HEALTH CARE FACILITIES BE LICENSED; PROVIDING FOR
9 ADDITIONAL REPORTING AND CATEGORIES OF UNPROFESSIONAL CONDUCT; INCREASING THE SIZE
10 OF THE BOARD OF SOCIAL WORK EXAMINERS AND PROFESSIONAL COUNSELORS; AND AMENDING
11 SECTIONS 2-15-1744, 37-22-102, 37-22-201, 37-22-301, 37-22-303, 37-22-304, AND 37-22-305, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 **Section 1.** Section 2-15-1744, MCA, is amended to read:

16 **"2-15-1744. Board of social work examiners and professional counselors.** (1) (a) The governor
17 shall appoint a board of social work examiners and professional counselors consisting of ~~seven~~ nine members.

18 (b) ~~Three~~ Five members must be licensed social workers, two of whom must be licensed to practice
19 baccalaureate social work and three of whom must be licensed to practice clinical social work, and three must
20 be licensed professional counselors.

21 (c) One member must be appointed from and represent the general public and may not be engaged
22 in social work.

23 (d) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

24 (e) The board is designated a quasi-judicial board. Members are appointed, serve, and are subject to
25 removal in accordance with 2-15-124.

26 (2) Notwithstanding the qualifications for appointment contained in subsection (1), a person may be
27 appointed to the board without being licensed as a social worker or professional counselor if ~~he~~ the person is
28 issued a license under Title 37, ~~chapter 23~~, within 30 days after ~~his~~ appointment."

29
30 **Section 2.** Section 37-22-102, MCA, is amended to read:



1 **"37-22-102. Definitions.** As used in this chapter:

2 (1) "Board" means the board of social work examiners and professional counselors established under
3 2-15-1744.

4 (2) "Case management" means a method to plan, provide, evaluate, and monitor services from a variety
5 of resources on behalf of and in collaboration with a client.

6 (3) "Client" means an individual, couple, family, group, organization, or community that seeks or
7 receives social work services from an individual social worker or organization, regardless of billing or payment
8 of fees for services.

9 (4) "Counseling" means a method used by social workers to assist individuals, couples, families, and
10 groups in learning how to solve problems and make decisions about personal, health, social, educational,
11 vocational, financial, mental health, and other interpersonal concerns.

12 ~~(2)~~(5) "Department" means the department of labor and industry.

13 (6) "Direct client contact" means physical presence, electronic presence, or interactive videolink
14 presence of the client, a family member of a client, or a client representative.

15 (7) "Electronic practice" means practice across jurisdictional lines and when the practitioner and client
16 are not physically present to each other. The term includes but is not limited to telephonic consultation,
17 interactive video, telephonic crisis intervention, monitoring of clients in remote areas through established
18 programs, distance counseling, and transmitting confidential information.

19 (8) "Independent practice" means the practice of social work outside of an organized setting, such as
20 a social, medical, or governmental organization or agency, after completion of all supervision requirements, and
21 for which the social worker assumes responsibility and accountability for services provided without supervision.

22 ~~(3)~~(9) "Licensee" means a person licensed under this chapter.

23 (10) "Practice of associate social work" means the practice of social work by those persons who have
24 a baccalaureate degree in a field related to social work or who are employed in a social work position in an
25 agency without a documented degree.

26 (11) "Practice of baccalaureate social work" means the basic generalist practice of social work and may
27 include independent practice.

28 (12) "Practice of clinical social work" means a specialty within the practice of master's social work,
29 including specialized clinical knowledge and advanced clinical skills in the diagnosis and treatment of mental,
30 emotional, and behavioral disorders, conditions, and addictions, applying the treatment methods of group

1 counseling and psychotherapy.

2 (13) "Practice of master's social work" means the application of specialized knowledge and advance
3 practice skills in the areas of treatment planning, implementation, and evaluation in the practice of social work.
4 The term may include the practice of clinical social work under clinical supervision or may include independent
5 practice.

6 ~~(4) "Psychotherapy" means the use of psychosocial methods within a professional relationship to assist~~
7 ~~a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect~~
8 ~~individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal~~
9 ~~processes.~~

10 ~~(5) "Social work" means the professional practice directed toward helping people achieve more~~
11 ~~adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge~~
12 ~~of social resources, human capabilities, and the roles that individual motivation and social influences play in~~
13 ~~determining behavior and involves the application of social work techniques, including:~~

14 ~~—— (a) counseling and using psychotherapy with individuals, families, or groups;~~

15 ~~—— (b) providing information and referral services;~~

16 ~~—— (c) providing, arranging, or supervising the provision of social services;~~

17 ~~—— (d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or~~
18 ~~groups;~~

19 ~~—— (e) helping communities to organize to provide or improve social and health services; and~~

20 ~~—— (f) research or teaching related to social work.~~

21 (14) "Psychosocial methods" means those professional techniques that are identified as clinical in nature
22 and that:

23 (a) enhance the problem-solving and coping capacity of people;

24 (b) link people with systems that provide them with resources, services, and opportunities;

25 (c) promote effective and humane operation of these systems; and

26 (d) contribute to the development and improvement of social policy.

27 (15) (a) "Psychotherapy" means the use of psychosocial methods within a professional relationship to
28 assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that
29 affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their
30 interpersonal processes.

1 (b) The term includes counseling and the therapeutic process of:

2 (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and
 3 objectives, including the selecting, administering, scoring, and interpreting of instruments designed to assess
 4 an individual's aptitude, attitudes, abilities, achievement, interests, emotions, thoughts, behaviors, and personal
 5 characteristics; or

6 (ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate
 7 human development and to identify and remediate mental, emotional, or behavioral disorders and associated
 8 distresses that interfere with mental health.

9 (16) "Qualified supervisor" means a supervisor determined to be qualified by board rule.

10 (17) "Social work" means the application of social work theory, knowledge, methods, and ethics and the
 11 professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals,
 12 couples, families, groups, organizations, and communities and includes skills in the areas of assessment,
 13 planning, intervention, evaluation, case management, information and referral, counseling, supervision,
 14 consultation, education, advocacy, and community organization and in the development, implementation, and
 15 administration of policies, programs, and activities. The term includes electronic practice.

16 (18) "Supervision" means the professional relationship between a qualified supervisor and a social work
 17 supervisee that provides evaluation and direction over the services provided by the social work supervisee and
 18 promotes continued development of the social work supervisee's knowledge, skills, and abilities to provide
 19 services in an ethical and competent manner."

20

21 **Section 3.** Section 37-22-201, MCA, is amended to read:

22 **"37-22-201. Duties of board.** The board shall:

23 (1) subject to 37-1-101, examine qualified applicants, issue licenses to qualified applicants that meet
 24 the requirements of this chapter, and renew licenses under the provisions of this chapter;

25 (2) recommend prosecutions for violations of 37-1-317, 37-22-411, and [section 13] to the department,
 26 the attorney general, or the appropriate county attorney, ~~or both~~;

27 (3) annually publish a list of the names and addresses of all persons who are licensed social workers;

28 (4) establish requirements for continuing education, including acceptable program content, that are a
 29 condition of license renewal and the continued competence of social workers;

30 (5) meet at least once every 3 months to perform the duties described in this section. The board may,

1 once a year by a consensus of its members, determine that there is no necessity for a board meeting.

2 (6) distribute a copy of the ethical standards to ~~the certified masters~~ persons licensed in a practice of
3 social work; and

4 (7) adopt rules that set professional, practice, and ethical standards for persons licensed ~~masters of to~~
5 practice social work and ~~such~~ other rules as may be reasonably necessary for the administration of this chapter;

6 (8) prepare examinations that measure the competence of the applicants to engage in the respective
7 practice of social work. The board may employ, cooperate, or contract with an organization or consultant in the
8 preparation of the examination. The examinations must be given twice a year. The board shall determine the
9 content and subject matter of each examination and the place, time, and date of administration of the
10 examination. The board retains sole discretion for determining which applicants have successfully passed the
11 examinations.

12 (9) establish requirements for practice supervised by qualified supervisors or for any other program to
13 acquire experience that is necessary to qualify for any licensure examination under this section."

14
15 **NEW SECTION. Section 4. License to practice associate social work -- exemption from exam.**

16 (1) To obtain a license to engage in the practice of associate social work, a license applicant:

17 (a) except as provided in subsection (2), shall fulfill the requirements of 37-22-301;

18 (b) must have graduated and received a baccalaureate or master's degree in a field related to social
19 work;

20 (c) must be currently employed in a human services agency; and

21 (d) shall provide documentation of education, including field experience in human services or
22 employment in social work practice for at least 2 years.

23 (2) The board may exempt an individual from the examination requirements of 37-22-301 if the person
24 makes an application prior to or on December 31, 2005. After December 31, 2005, each license applicant shall
25 take the examination for the practice of associate social work.

26 (3) A license issued under this section:

27 (a) applies only to the practice of associate social work by a person in the employ of a human services
28 agency at the time of application; and

29 (b) may not be renewed after December 31, 2010, except as provided in [section 5].

30

1 **NEW SECTION. Section 5. Licensure as baccalaureate social worker -- exemption from exam.**

2 (1) To obtain a license to engage in the practice of baccalaureate social work, a license applicant:

3 (a) except as provided in subsection (2), shall fulfill the requirements of 37-22-301; and

4 (b) (i) must have graduated and received a baccalaureate degree in social work from a social work
5 program approved by the board; or

6 (ii) must have held a license to practice associate social work in the license year prior to December 31,
7 2010, and shall submit proof of current employment in a social work position in a human services agency.

8 (2) The board may exempt an individual from the examination requirements of 37-22-301 if the person:

9 (a) has a bachelor's degree granted prior to December 31, 2005, in social work from a social work
10 program approved by the board; and

11 (b) makes an application prior to December 31, 2005.

12

13 **NEW SECTION. Section 6. License to practice master's social work -- exemption from exam. (1)**

14 To obtain a license to engage in the practice of master's social work, a license applicant:

15 (a) except as provided in subsection (2), shall fulfill the requirements of 37-22-301; and

16 (b) must have graduated and received a master's or doctorate degree in social work from a social work
17 program approved by the board.

18 (2) The board may exempt an individual from the examination requirements of 37-22-301 if the person:

19 (a) has a master's or doctorate degree granted prior to December 31, 2005, in social work from a social
20 work program approved by the board; and

21 (b) makes an application prior to December 31, 2005.

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23 **NEW SECTION. Section 7. License to practice clinical social work. (1)** To obtain a license to

24 engage in the practice of clinical social work, a license applicant:

25 (a) shall fulfill the requirements of 37-22-301; and

26 (b) must have graduated and received a master's or doctorate degree in social work from a social work
27 program approved by the board;

28 (c) must have completed at least 24 months of supervised post master's degree work experience in
29 psychotherapy that included 3,000 hours of social work experience, of which at least 1,500 hours were in direct
30 client contact, within the past 5 years.

1 (2) Licensed clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental
 2 Disorders, the International Classification of Diseases, and other diagnostic classification systems and tools in
 3 assessment, diagnosis, and other activities.

4
 5 **NEW SECTION. Section 8. Independent practice endorsement.** (1) The board may grant an
 6 endorsement to engage in the independent practice of social work.

7 (2) In order to obtain an endorsement to engage in the independent practice of social work, a person
 8 licensed in the practice of baccalaureate social work or in the practice of master's social work shall:

9 (a) complete at least 3,000 hours of postgraduate social work experience under supervision;

10 (b) submit a complete application for endorsement to the board on a form provided by the department;

11 (c) present three letters of reference from persons who have knowledge of the applicant's professional
 12 performance; and

13 (d) pay the endorsement fee set by the board.

14

15 **Section 9.** Section 37-22-301, MCA, is amended to read:

16 **"37-22-301. License requirements -- exemptions.** (1) A license applicant shall satisfactorily complete
 17 an application and an examination prepared and administered by the board.

18 (2) Before an applicant may take the examination, the applicant shall present three letters of reference
 19 from ~~licensed social workers, licensed clinical social workers, psychiatrists, or psychologists~~ persons who have
 20 knowledge of the applicant's professional performance, ~~and~~

21 (3) The license applicant shall demonstrate to the board that the applicant:

22 (a) has a doctorate or master's degree in social work from a program accredited by the council on social
 23 work education or approved by the board;

24 ~~_____ (b) has completed at least 24 months of supervised post master's degree work experience in~~
 25 ~~psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in~~
 26 ~~direct client contact, within the past 5 years; and~~

27 (c)(a) is of good moral character and abides by the social work ethical standards adopted under
 28 37-22-201; and

29 (b) has paid the applicable fees as provided in 37-22-302.

30 ~~_____ (3) An applicant who submits an application for licensure before October 1, 1994, may acquire the~~

1 ~~supervised experience required by subsection (2)(b) in less than 24 months.~~

2 (4) An applicant who has failed the examination may reapply to take the examination.

3 (5) An applicant is exempt from the examination requirement:

4 (a) as provided in [sections 4 through 6]; or

5 (b) if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws
6 of a state or territory of the United States that imposes substantially the same requirements as this chapter and
7 that the applicant has passed an examination similar to that required by the board."

8

9 **Section 10.** Section 37-22-303, MCA, is amended to read:

10 **"37-22-303. Issuance, effective date, and display of license.** (1) Upon successful completion of the
11 examination required by 37-22-301 or upon demonstration by a person that ~~he~~ the person is exempt from
12 examination and has otherwise fulfilled the requirements of 37-22-301 and [sections 4 through 8], the applicant
13 must be issued a license attesting to the date and fact of licensure. The license is effective on the date of
14 issuance and expires December 31 of each year.

15 (2) The license must be displayed in the registrant's place of business or employment."

16

17 **Section 11.** Section 37-22-304, MCA, is amended to read:

18 **"37-22-304. Renewal of license.** (1) An application for renewal of an existing license must be made
19 on or before the date set by department rule.

20 (2) Application for renewal must be made upon a form provided by the department. A renewal license
21 must be issued upon payment of a renewal fee set by the board and upon submitting proof of qualification for
22 renewal.

23 (3) Subject to subsection (5), the renewal fee is increased by 10% for each month or part of a month
24 that the renewal is delayed. The maximum fee for delayed renewal may not exceed twice the normal renewal
25 fee.

26 (4) Subject to subsection (5), a license not renewed within ~~4 year~~ 2 years following its expiration date
27 terminates automatically, and the person shall reapply as an initial applicant for licensure, unless the person has
28 continually practiced licensed social work in another state and the person completes continuing education
29 requirements and pays the license fee.

30 (5) This section may not be interpreted to conflict with 37-1-138."

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Section 12. Section 37-22-305, MCA, is amended to read:

"37-22-305. Representation to public as licensed clinical social worker -- limitations on use of title -- limitations on practice. ~~(1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical social worker". Except as provided in subsection (2), a person may not represent that the person is a licensed clinical social worker by adding the letters "LSW" or "LCSW" after the person's name or by any other means unless licensed under this chapter.~~

~~———— (2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed social worker" or "LSW" may use the title "licensed clinical social worker" or "LCSW".~~ (1) (a) It is unlawful for any individual to engage in the practice of associate social work unless licensed as an associate social worker under [section 4].

(b) It is unlawful for any individual to engage in the practice of baccalaureate social work unless licensed as a baccalaureate social worker under [section 5].

(c) It is unlawful for any individual to engage in the practice of master's social work unless licensed as a master's social worker under [section 6].

(d) It is unlawful for any individual to engage in the practice of clinical social work unless licensed as a clinical social worker under [section 7].

(2) An individual may not offer social work services or use the designation "social worker", "licensed social worker", "licensed associate social worker", "licensed baccalaureate social worker", "licensed master's social worker", or "licensed clinical social worker" or use the letters "LSW", "LASW", "LBSW", "LMSW", or "LCSW" or any other designation indicating licensure status or hold out to the public as practicing associate, baccalaureate, master's, or clinical social work unless licensed.

(3) The provision of social work services to an individual in this state through electronic practice, regardless of the location of the social worker, constitutes the practice of social work and is subject to regulation.

~~(3)(4)~~ (4) Subsection (1) does not prohibit:

~~(a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral counselors, educators, or the general public engaged in social work like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "licensed social worker" or "licensed clinical social worker";~~

~~(b) activities, services, and use of an official title by a person in the employ of or under a contract with~~

1 ~~a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care~~
 2 ~~facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;~~

3 ~~(e)(a)~~ an employer from performing social work like activities performed solely for the benefit of
 4 employees;

5 ~~(d)(b)~~ activities and services, approved by the board, of a student, intern, or resident in social work
 6 pursuing a course of study at an accredited university or college or working in a generally recognized training
 7 center if the activities and services constitute a part of the supervised course of study;

8 ~~(e)(c)~~ activities and services by a person who is not a resident of this state that are rendered for a period
 9 that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law
 10 of the state or country of residence to perform the activities and services. However, the person shall report to
 11 the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

12 ~~(f)(d)~~ pending disposition of the application for a license, activities and services by a person who has
 13 recently become a resident of this state, has applied for a license within 90 days of taking up residency in this
 14 state, and is licensed to perform the activities and services in the state of former residence.

15 (5) Nothing in this chapter may be construed to prevent a person who is recognized, certified, or
 16 licensed by any other regulatory board or authority in this state from performing functions for which the person
 17 is recognized, certified, or licensed. However, a person who is recognized, certified, or licensed by another
 18 regulatory board or authority may not hold out to the public or use any title or description stating or implying that
 19 the person is engaged in the practice of social work or that the person is licensed to engage in the practice of
 20 social work."

21
 22 **NEW SECTION. Section 13. Unprofessional conduct -- reporting.** (1) Social workers shall report
 23 to the board information on the following conduct, in addition to reporting any of the conduct outlined in 37-1-316,
 24 by an applicant or a licensee:

- 25 (a) sexual contact or sexual conduct with a client or a former client, with the client's consent to report;
 26 (b) improper or fraudulent billing practices; or
 27 (c) conviction of any felony or any crime reasonably related to the practice of social work.

28 (2) The district court shall report to the board any judgment or other determination of the court, including
 29 a finding that an applicant or a licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation
 30 of state laws on controlled substances, or guilty of abuse or fraud under medicare or medicaid or that the court

1 has appointed a guardian for the applicant or licensee or has committed an applicant or licensee pursuant to
2 applicable law.

3 (3) An applicant or licensee shall report to the board any personal action that would require a report to
4 be filed pursuant to 37-1-308 or this section.

5 (4) Reports under 37-1-308 and this section must be submitted no later than 30 days after the
6 occurrence of the reportable event or transaction.

7
8 **NEW SECTION. Section 14. Codification instruction.** (1) [Sections 4 through 8] are intended to be
9 codified as an integral part of Title 37, chapter 22, part 3, and the provisions of Title 37, chapter 22, part 3, apply
10 to [sections 4 through 8].

11 (2) [Section 13] is intended to be codified as an integral part of Title 37, chapter 22, part 4, and the
12 provisions of Title 37, chapter 22, part 4, apply to [section 13].

13 - END -